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HERIZEL APARICIO-NAZARIO,

Plaintiff,

v.

UNITED STATES OF AMERICA

Defendant,

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY
CIVIL DIVISION

CIVIL ACTION NO. 17-13202

AMENDED COMPLAINT

Plaintiff, Herizel Aparicio-Nazario, states the following by way of complaint against the defendant:

THE PARTIES, JURISDICTION AND VENUE

1. Plaintiff, Herizel Aparicio-Nazario, resides at 209 Abbey Lane, in the City of Pleasantville, County of Atlantic and State of New Jersey.
2. The defendant, United States of America, through its designated agency, the United States Postal Service, operated the Atlantic City Post Office, located at 800 Absecon Boulevard in the City of Atlantic City, County of Atlantic and State of New Jersey.

3. Venue is laid in this judicial district pursuant to 28 USC section 1391(a).

FIRST COUNT

1. On December 6, 2016, Plaintiff Herizel Aparicio-Nazario was a pedestrian on Albany Avenue in the City of Atlantic City, walking in the crosswalk near the intersection of Crossan Avenue.

2. At the aforementioned time and place, the defendant United States of America, owned, and its agent or employee, Angel G. Rodriguez, operated a United States Postal truck.

3. At the aforementioned time and place, Angel G. Rodriguez, caused the United States Postal truck that he was driving, to turn right from Crossan Avenue and onto Albany Avenue, into the crosswalk where Plaintiff was walking with the right of way.

4. At the aforementioned time and place, the United States Postal truck operated by Angel G. Rodriguez, struck Herizel Aparicio-Nazario as he was lawfully in the crosswalk on Albany Avenue, with the right of way.

5. Angel G. Rodriguez carelessly and negligently operated the motor vehicle by failing to yield to Plaintiff in the crosswalk. Further, Angel G. Rodriguez, did not stop once he struck Plaintiff in the crosswalk, but instead, continued to drive the United States Postal vehicle, dragging Plaintiff under the vehicle before coming to a stop.

6. Angel G. Rodriguez intentionally, recklessly and carelessly failed to report the incident to Police, deliberately depriving Plaintiff of care from trained emergency responders and causing further damage to Plaintiff. Instead, Angel G. Rodriguez picked up Plaintiff from the street and placed the badly injured Plaintiff in the United States Postal vehicle, leaving the scene without reporting the accident.

7. Next, Angel G. Rodriguez, drove the United States Postal vehicle, with Plaintiff in it, several miles before dropping Plaintiff off at the Atlanticare Regional Medical Center without providing any information concerning Plaintiff's condition, the incident, or providing any information which would identify defendant Rodriguez.

8. Angel G. Rodriguez left the hospital, deliberately attempting to avoid responsibility for the negligent harm inflicted upon Plaintiff.

9. As a direct and proximate result of the aforementioned actions of Angel G. Rodriguez, the employer agent of the defendant United States of America, the Plaintiff, Herizel Aparicio-Nazario, was caused severe permanent bodily and psychological injuries, and has incurred, and in the future will incur, medical expenses and related expenditures, and was otherwise prevented from attending to his regular pursuits, employment duties and obligations.

10. In accordance with the requirements of law, a Standard Form 95 Claim for Damage, Injury or Death, was filed on behalf of the Plaintiff in this matter in a timely fashion, on January 5, 2017.

11. On December 4, 2017 the United States Postal Service formally denied Plaintiffs claim on the grounds that a mutually satisfactory settlement could not be reached.

12. Pursuant to 28 U.S.C. §2401(b) and 39 C.F.R. 912.9(a), this Complaint is filed within six (6) months of the Postal Service's mailing of the aforementioned Notice of Final Action.

WHEREFORE, the Plaintiff, Herizel Aparicio-Nazario, demands judgment on this count against the defendant, the United States of America, for compensatory damages in the sum of \$5,000,000.00, interest, and costs of suit.

JURY DEMAND

The Plaintiff hereby requests a trial by jury as to all issues referred to in the Complaint.

CERTIFICATION

I certify that this matter is not the subject of any pending lawsuit or arbitration.

I further certify that no other parties should be joined in this action.

DEMAND FOR ANSWERS TO INTERROGATORIES

The Plaintiffs hereby demand that the defendant answer Form C and C1 Interrogatories within the time prescribed by the Rules of Court.

DESIGNATION OF TRIAL COUNSEL

Pursuant to R. 4:25-4, Michael J. Pender, Esquire, is hereby designated as trial counsel in the above captioned litigation on behalf of Plaintiffs.

TARGAN & PENDER
Attorneys for Plaintiffs

By: 

Michael J. Pender

Dated: 